UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA

:

v. : Crim. No. RDB 15-457

:

PAUL JONES :

:

JOINT MOTION TO VACATE CONVICTION AND SENTENCE

Defendant Paul Jones and the United States of America, by counsel, hereby jointly request, pursuant to 28 U.S.C. § 2255, that the Court vacate the conviction and sentence imposed upon the Defendant in criminal case number RDB 15-457. In support of this Motion, the parties state as follows:

- 1. On May 28, 2015, officers of the Baltimore Police Department executed a state search and seizure warrant at the Defendant's home in Baltimore City. Upon searching the Defendant's home, the officers recovered narcotics and firearms which the defendant subsequently admitted to possessing. On August 20, 2015, the Defendant was charged by indictment with possession of a firearm by prohibited person, in violation of 18 U.S.C. § 922(g) (Count One) and possession with the intent to distribute a controlled substance, in violation of 21 U.S.C. § 841 (Count Two). The Defendant pleaded guilty to Count Two and was subsequently sentenced to 72 months imprisonment. The Defendant has not previously appealed his conviction nor challenged that conviction pursuant to 28 U.S.C. § 2255.
- 2. The Government has recently learned that false information may have been knowingly included in the state search warrant affidavit. This information was material to the probable cause that supported the issuance of the warrant. Neither the Defendant, nor the Government, were aware of this fact at the time of the Defendant's guilty plea. As a result, the

Defendant believes this information may give him the basis to challenge the validity of his conviction. *United States v. Fisher*, 711 F.3d 460 (4th Cir. 2013). Without conceding the legal issue, the Government believes that on the particular facts of this case it is appropriate to have the Defendant's conviction and sentence vacated.

- 3. Section 2255(b) of Title 28 provides that, if a district court determines that a Defendant is entitled to relief under the statute, it may vacate and set aside the conviction, discharge the prisoner, grant a new trial, or may "correct the sentence as may appear appropriate." That provision confers a "broad and flexible" power to district courts to fashion an "appropriate remedy" in 2255 cases. *See United States v. Hillary*, 106 F.3d 1170, 1171-72 (4th Cir. 1997) (quoting *United States v. Garcia*, 956 F.2d 41, 45 (4th Cir. 1992)).
- 4. For the reasons stated above the parties are in agreement that the circumstances of this case warrant relief under section 2255 and have prepared this joint motion to request that the Court vacate the Defendant's conviction and sentence. The parties agree that this joint resolution will resolve any claims relating to the vacatur of the Defendant's conviction and sentence.

CONCLUSION

Therefore, for the foregoing reasons, the United States and the Defendant respectfully request that the Court grant the relief with respect to this motion, as set forth above.

Stephen M. Schenning Acting United States Attorney	Counsel the Defendant, Paul Jones
By: /s/	<u>/s/</u>
Clinton J. Fuchs	Lisa Lunt, Esq.
Assistant United States Attorney	Assistant Federal Public Defender
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Baltimore, Maryland 21201	

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ORDER

Upon consideration of the Joint Motion to Vacate Conviction and Sentence filed by the parties in the above-captioned matter, in which the parties request that the Court vacate the conviction and sentence imposed upon Paul Jones (hereinafter the "Defendant"), the Court hereby ORDERS as follows:

- 1. The conviction of Paul Jones in criminal case number RDB 15-457 is hereby VACATED;
- 2. The sentence imposed upon Paul Jones in criminal case number RDB 15-457 is hereby VACATED.

Date	Hon. Richard D. Bennett
	United States District Judge